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EXAMINER

COLBERT, ELLA

ART UNIT PAPER NUMBER

3624

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Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/662,737

Applicant(s)

MUNDY ET AL.

Examiner

Ella Colbert

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 15 September 2000.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1. 6) ☐ Other:

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### DETAILED ACTION

1. Claims 1-46 are presented for examination.

#### ***Double Patenting***

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-46 are provisionally rejected under the judicially created doctrine of double patenting over claims 1-46 of copending Application No. 09/428,702. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application 09/428,702 and would be covered by any patent granted on that copending application since the referenced copending application and

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the instant application are claiming common subject matter, as follows: aggregating information from a plurality of enterprises offering items for exchange over a network, automatically collecting and analyzing information about the items from enterprise databases associated with each of the enterprises, a host computer, storing the information collected from the enterprise databases in a host database, providing a host graphical user interface through which a shopper can view over the network the information stored in the host database, HTML page trees, XML page trees, information that is publicly accessible, auction sites offering items for purchase over a network, auction databases, periodically collecting information about the items from the enterprise databases, updating the information stored in the host database, updating the information stored in the host database with sufficiently frequency to enable the shopper to monitor and participate effectively in the bidding activity at the auction sites, receiving an auction site watch request, dynamically scheduling the collecting of information, enabling the shopper to enter an update request, enabling a shopper to enter an item watch request specifying a particular item for monitoring, monitoring auction sites, providing the shopper with a notification in response to detecting the specified item becoming available for bidding, enabling the shopper to enter market watch request specifying a class of items for monitoring, distinguishing between newly detected ones of the items from previously detected ones of the items, providing the shopper with notification regarding detection of the items within the class of items, providing shoppers with notification of host-based events by way of a host graphical user interface mechanism, the host mechanism includes at least one of electronic mail,

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Internet messaging, pager, facsimile, telephone, and Web telephone, a hyperlink to the host graphical user interface, enabling a shopper to enter a host database query specifying a class of items, a host graphical user interface for enabling a shopper to restrict searching the host database for items, displaying the auction information, enabling a shopper to restrict the class of items by specifying a particular type of auction site in which the shopper is interested, the auction site includes person-to-person auctions and business-to person auctions, accepting from a shopper a time frame, sorting and arranging data items according to a hierarchy of product and service categories established by the host server, information corresponding to the product or service description, a name of auction site, and a type of auction, a hierarchy of product and service type categories and subcategories, searching by one or more keywords can be conducted within one or more of the categories, the search by categories can be conducted within a subset of data items, providing a shopper with a current aggregated listing of the items and the current bid information for the items, and enabling the shopper to bid on the items.

Furthermore, there is no apparent reason why applicant would be prevented from presenting claims corresponding to those of the instant application in the other copending application. See *In re Schneller*, 397 F.2d 350, 158 USPQ 210 (CCPA 1968). See also MPEP § 804.

4. With respect to claim 1 of the instant application, the preamble contains the phrase "a method for aggregating information ..." (page 36), while on the other hand, claim 1 of the '702' contains the phrase "a network-based system for aggregating

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information ... (page 36). However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the '702' application to arrive at the claim 1, by simply including a method for aggregating information and to perform the steps of claim 1 of the '702 application. The scope of claim 1 of the '702 application encompasses all of the elements of the instant claim 1 except a "method for performing the steps of claim 1 as recited in the preamble.

Claim 1 is provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claim 1 of copending Application No. 09/428,702 in view of Conklin et al (US 6,336, 105B1), and although the conflicting claims are not identical, they are not patentably distinct from each other because they recite elements that are substantially the same and that would have been obvious to one having ordinary skill in the art.

Claim 1 of the instant application and claim 1 of the copending application '702, claims all of the limitations except the method step "wherein the host computer is further adapted for providing a host graphical user interface through which a shopper can view, over the network the information stored in the host database". As per this feature, Conklin et al teaches, in the same field of endeavor a host computer adapted for providing a host graphical user interface through which a shopper can view, over the network the information stored in the host database. Note col. 31, lines 35-47, fig. 29, steps SO1, SO3, & SO6). Thus, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to have the host computer further adapted for providing a host graphical user interface through which a shopper can view, over the

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network the information stored in the host database as evidenced by Conklin et al for the purpose of displaying to the buyer the sellers with goods meeting the needs and the buyer can link to the sites of the sellers listed in the display.

Claims 2-10 are judicially rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over 09/428,702 in view of Conklin et al (US 6,336,105B1), and further in view of (6,424,979B1) Livingston et al.

Claim 2 of the instant application and claim 2 of the copending application '702 and Conklin teaches the enterprise databases include HTML pages, however the '702 application and Conklin do not teach crawling the HTML page trees. Livingston et al discloses the enterprise databases include crawling the HTML page trees (col. 12, lines 18-23). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have the enterprise databases include crawling the HTML page trees and to crawl the HTML page trees and to modify in '702 and Conklin et al by having the enterprise databases include crawling the HTML page trees as evidenced by Livingston. One would have been motivated to use such a modification for the purpose of searching for information because crawling the HTML page can locate new, publicly accessible resources such as documents and files available in a File Transfer Protocol (FTP) archives. These discoveries are attributed to a database which Internet users can search by using an Internet search engine (such as Lycos or WebCrawler). – Webster's New World Computer Dictionary –page 345. The scope of claim 2 of the '702 application encompasses all of the elements of the instant claim 2 except the use

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of the term "crawling HTML page trees". HTML page trees are well known in the Internet art.

Claim 3 of the instant application and claim 3 of the copending application '702 and Conklin et al teaches XML pages. Conklin et al did not teach, the enterprise databases include crawling XML page trees. Livingston discloses the enterprise databases include crawling XML page trees (col. 9, lines 47-51 and lines 54-64, col. 11, lines 43-52, col. 12, lines 1-23, fig. 4, step 79, fig. 8, steps 174, 176, & 180 and fig. 20). It would have been obvious to a person of ordinary skill in the art at the time the invention was made to have the enterprise databases include crawling the XML page trees and to have modified "702 and Conklin et al by including enterprise databases to include XML page trees as evidenced by Livingston. One would have been motivated to use such a modification for the purpose of having XML data represented as a hierarchical tree, so the system can navigate the tree to retrieve the components to build the page and to have a generator to compare the user's request to the attributes stored in the XML tags that mark the tree's components and only return the information. XML pages are well known in the Internet art.

Claims 4 and 8 of the instant application and claims 4 and 8 of the copending application '702, Conklin et al (col. 8, lines 26-62 and col. 10, lines 1-23) and Livingston et al (col. 5, lines 56-62 and col. 8, lines 28-34) teaches the information is publicly accessible. The instant application teaches collecting the information including publicly accessible information. It would have been obvious to one of ordinary skill in the art at the time the invention was made to collect the information prior to making it publicly

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accessible. Therefore, the results are the same regardless of the use of "collecting the information." The scope of claim 4 of the '737 application encompasses all of the elements of the instant claims 4 and 8 except the use of "collecting the information."

Claim 5 of the instant application contains the phrase "... enterprise databases includes ... auction sites offering items for purchase ..." versus the '702' application "a plurality of enterprises includes auction sites offering items for purchase over a network and having associated auction databases." Both use the phrase "auction sites ..." and "auction databases". Conklin teaches, the plurality of enterprises includes auction sites offering items for purchase over the network having associated auction databases (col. 13, lines 7-35, therefore it would have been obvious at the time the invention was made to have used the term "collecting information from enterprise databases including collecting information from auction sites" because the information has to be collected from the auction sites to place in the database before a shopper can access the information to view it.

Claim 6 of the instant application contains the phrase "auction databases include crawling HTML page trees" versus the '702' application "auction databases include HTML page trees." Both use the same phrase "auction databases" while referencing "HTML page trees". Conklin did not teach the auction databases include HTML page trees or crawling HTML page trees. Livingston discloses crawling HTML page trees in col. 12, lines 18-23), (see claim 2), *supra*. Therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have "auction databases", to collect the information and to "crawl the HTML page trees" once the

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information has been collected because the information has to be collected in the auction databases prior to "crawling the HTML page trees." The scope of the claim 6 of the '702' application encompasses all of the elements of the instant claim 6.

Claim 7 of the instant application contains the phrase "collecting information from auction databases includes crawling XML page trees" versus the '702' application "auction databases include XML page trees." Both use the same phrase "auction databases" while referencing "XML page trees", therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to collect the information and to have "auction databases" and "crawl the XML page trees" because the information has to be collected in the auction databases prior to "crawling the XML page trees." The scope of the claim 6 of the '702' application encompasses all of the elements of the instant claim 6 except "crawling XML page trees."

Claim 9 of the instant application contains the phrases "periodically collecting information about items ...," and "updating information stored ..." versus the '702' application "the host computer is further adapted for periodically collecting information about items ..., and updating information stored ...". Both use the same phrases "periodically collecting information about items ..., and updating information stored ...", therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to periodically collect the information about the items from the enterprises databases and to perform the method steps of claim 9 because the information can be collected periodically about the items from the enterprises databases and the information updated that is stored in a host database and to have a host

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computer as the main computer in the system of computers or terminals connected by communications links which is well-known in the computer art.

Claim 10 of the instant application contains the phrases "... host database comprises updating the information stored in the host database ... with sufficiently frequency to enable a shopper to monitor and participate effectively in bidding activity at the auction sites" versus the '702' application the host computer is further adapted for periodically collecting the information about items from the enterprise databases and updating information stored in host database with sufficiently frequency to enable a shopper to monitor and participate effectively in bidding activity at auction sites". Both use the same phrases "updating information stored ... with sufficiently frequency to enable a shopper to monitor and participate effectively in bidding activity at the auction sites", therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a host database and a host computer for performing the steps of claim 10 because a host database and a host computer are connected by communications links which is well-known in the computer art.

Claim 11 of the instant application contains the phrases "dynamically scheduling the collecting of information from the auction databases ...." versus the '702' application "the host computer is further adapted for dynamically scheduling the collecting of information ...". Both use the phrases "dynamically scheduling the collecting of information from the auction database ...", therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a method for performing the steps of claim 11 because the information should be

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scheduled prior to the collection from the auction databases and to have a host computer adapted because the host computer is the main computer in a system of computers or terminals connected by communications links which is well-known in the computer art, *Supra*.

Claim 12 of the instant application contains the phrases "enabling the host computer to receive an auction watch request ..., monitoring with the host computer a bidding activity at a specified auction site, and for displaying the bidding activity to the shopper ... host graphical user interface" versus the '702' application "graphical user interface is adapted for enabling the shopper to enter an auction request, and the host computer ..., monitoring bidding activity ..., and displaying the bidding activity...". Both use the phrases "host computer", "auction watch request", "monitoring a bidding activity ..., and "displaying the bidding activity to the shopper by way of the host graphical user interface", therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a network-based system and a graphical user interface to perform the steps of claim 12 because a graphical user interface is a type of environment that represents programs, files, and options by means of icons, menus, and dialog boxes on the screen. The user can select and activate these options by pointing and clicking with a mouse or often, with the keyboard. A graphical user interface is well known in the computer art.

Claim 13 of the instant application contains the phrases "dynamically scheduling the collecting of information from the auction databases ..." versus the '702' "network-based system wherein the host computer is further adapted for dynamically scheduling

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the collecting of information ...". Both use the phrases "dynamically scheduling the collecting of information from the auction databases ...", therefore it would have been obvious to one having skill in the art at the time the invention was made to have a host computer to perform the method of "dynamically scheduling the collecting of information from the auction databases ..." because a host computer can be used to perform the method steps of claim 13 (see claim 11), *supra*.

Claim 14 of the instant application is similar to claim 14 of the '702 application except the instant application has a "method" and the '702' uses a network-based system to perform the steps of claim 14. (See claim 12), *supra*.

Claim 15 of the instant application and the '702' application have similar claim elements as claim 9, *supra*.

Claim 16 of the instant application and the '702' application have similar claim elements as claim 14, *supra*.

Claim 17 of the instant application contains the phrases "... host graphical user interface accept from the shopper to enter an item watch ... and monitoring the auction sites to detect if the specified item becomes available ..." versus the '702' application "the host graphical user interface is adapted for enabling the shopper to enter an item watch ... and monitoring the auction sites ...". Both use the phrases "enabling the shopper to enter an item watch request ... and monitoring the auction sites ...", therefore it would have been obvious to one having skill in the art at the time the invention was made to have a host graphical user interface being adapted to perform the network-based steps of "the host graphical user interface adapted for enabling the

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shopper to enter an item watch request ... and monitoring the auction sites ..." because a graphical user interface is a type of environment that represents programs, files, and options by means of icons, menus, and dialog boxes on the screen. The user can select and activate these options by pointing and clicking with a mouse or often, with the keyboard. A graphical user interface is well known in the computer art (see claim 12), *supra*.

Claim 18 of the instant application and the '702' application have similar claim elements except the instant application has the phrases "method" and "... a host computer initiated mechanism different from a host graphical user interface". Both use the phrases "providing the shopper with notification in response to detecting ..., wherein the host computer provides the notification by way of a host initiated graphical user interface mechanism" versus the '702' application "host computer" and "... a host initiated non-(host graphical user interface) mechanism" therefore it would have been obvious to one having ordinary skill in the art at the time the invention was made to have a host computer and a host initiated graphical user interface to perform the method steps of claim 18 (see claims 12 and 17), *supra*.

Claim 19 of the instant application and the '702' application have similar claim elements except the instant application has the phrases "method enabling the host graphical user interface to accept from the shopper a market watch request ... and detecting availability of items within the class ..." versus the '702' application "host graphical user interface adapted for enabling the shopper to enter market watch request ... and the host computer is further adapted for detecting ...". Both use the phrases "a

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market watch request ... and detecting availability of items within the class ...", therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to have a host computer and a host initiated graphical user interface to perform the method steps of claim 19 (see claims 12 and 17), *supra*.

Claim 20 of the instant application and the '702' application have similar claim elements except the instant application has the phrase a "method" to perform the steps of claim 20 versus "a host computer" to perform the steps of claim 20, therefore it would have been obvious to one having skill in the art at the time of the invention to have a host computer to perform the method steps of claim 20.

Claim 21 of the instant application and the '702' application have similar claim elements except the instant application has the phrase "... a host computer-initiated mechanism different from a host graphical user interface" versus the '702' application "... host computer is further adapted for providing the shopper with notification regarding detection of the items ... and wherein the host computer provides the notification by way of a host initiated non-(host graphical user interface) mechanism". Both use the phrases "providing the shopper with notification regarding detection of the items and wherein the host computer provides notification", therefore it would have been obvious to one having skill in the art at the time of the invention to have a host computer and a host initiated non-(host graphical user interface) mechanism to perform the method steps of claim 21 (see claims 12 and 17), *supra*.

Claim 22 of the instant application and the '702' application have similar claim elements as those of claim 18 (see claim 18), *supra*.

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Claim 23 of the instant application and the '702' application have similar claim elements except the instant application has the phrase host computer-initiated mechanism includes a communication mechanism chosen from ..." versus the '702' application "... host initiated mechanism includes at least one of ...". Both use the phrase "initiated mechanism" and "includes ...", therefore it would have been obvious to one having skill in the art at the time the invention was made to have a host initiated mechanism that includes a communication mechanism chosen from electronic mail, Internet messaging, pager, facsimile, telephone, and Web telephone because the communications mechanism connects to the host computer and to the electronic mail, Internet messaging, pager, facsimile, telephone, and Web telephone which enables data transfer.

Claim 24 of the instant application and the '702' application have similar claim elements except the instant application has the phrase "... host computer-initiated mechanism includes providing a hyperlink to the host graphical user interface" versus the '702' application "... provided by the host initiated mechanism includes a hyperlink to the graphical user interface". Both use the phrases "initiated mechanism includes a hyperlink" and "graphical user interface", therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to have a host computer-initiated mechanism to include a hyperlink to the graphical user interface because a host computer is the main computer in a system of computers or terminals connected by communications links which is well-known in the computer art and a graphical user interface is a type of environment that represents programs, files, and options by means

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of icons, menus, and dialog boxes on the screen. The user can select and activate these options by pointing and clicking with a mouse or often, with the keyboard. A graphical user interface is well known in the computer art.

Claim 25 of the instant application and the '702' application have similar claim elements except the instant application has the phrase the method steps versus the '702' application "host graphical user interface and a host computer". It would have been obvious to use the system steps of the instant application to perform the network-based system steps of the '702' application.

Claim 26 of the instant application and the '702' application have similar claim elements except the instant application has the phrase "... to accept from the shopper a host database query including enabling accepting from a shopper an indication of specific keywords to restrict the class of items". It would have been obvious to one having skill in the art at the time of the invention to accept from the shopper a database query to include enabling accepting from a shopper an indication of specific keywords to restrict the class of items because if a shopper did not restrict the class of items there would be too many items to view or the items may not be the items the shopper wishes to view.

Claim 27 of the instant application and the '702' application have similar claim elements except the instant application has the phrase "... accept from the shopper a host database query including enabling accepting from a shopper an indication of at least one category to restrict the class of items" versus the '702' application "... enabling a shopper to restrict the class of items by specifying at least one category". It would

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have been obvious to one having skill in the art at the time of the invention to accept from the shopper a database query to include enabling accepting from a shopper an indication of at least one category to restrict the class of items because if a shopper did not restrict the class of items there would be too many items to view or the items may not be the items the shopper wishes to view.

Claim 28 of the instant application and the '702' application have similar claim elements except the instant application has the phrase "... a host database query includes enabling accepting from a shopper an indication of a combination at least one keyword and at least one category to restrict the class of items" versus the '702' application "... enabling a shopper to restrict the class of items by specifying a combination of keywords and at least one category". It would have been obvious to one having skill in the art at the time of the invention to accept from the shopper a database query to include enabling accepting from a shopper an indication of at least one category to restrict the class of items because if a shopper did not restrict the class of items there would be too many items to view or the items may not be the items the shopper wishes to view.

Claim 29 of the instant application and the '702' application have similar claim elements such as "... shopper a host database query includes enabling from a shopper an indication of particular ones of the auction sites to restrict the class of items" versus the '702' application phrase "enabling accepting from a shopper an indication of particular ones of the auction sites to restrict the class of items." It would have been obvious to one having skill in the art at the time of the invention to accept from the

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shopper a database query to include enabling accepting from a shopper an indication of particular ones of the auction sites and to restrict the class of items because if a shopper did not select the auction sites and restrict the class of items there would be too many items to view or the items may not be the items the shopper wishes to view.

Claim 30 of the instant application and the '702' application have similar claim elements such as "... enabling a shopper to restrict the class of items by specifying a particular type of auction ..." versus the '702' application "a particular type of auction site in which the shopper is interested", therefore it would have been obvious to one having skill in the art at the time of the invention to have a host database query to include enabling accepting from a shopper an indication of a particular type of auction site ..." because a database is a file composed of records, each containing fields together with a set of operations for searching, sorting, recombining, and other functions which is well known in the art for performing the steps of claim 30 and network-based claim 30.

Claim 31 of the instant application and the '702' application have similar claim elements such as "... particular type of auction site includes person-to-person auctions and business-to-business auctions."

Claim 32 of the instant application and the '702' application have similar claim elements such as the phrase "... accept from the shopper a host database query includes enabling the host computer and host graphical user interface to accept from a shopper an indication of ..." versus the '702' application phrase "a time frame in which the host computer detects that an item within the class is available at one of the auction

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sites”, therefore it would have been obvious to one having skill in the art at the time of the invention to have a “... accept from the shopper a host database query includes enabling the host computer and host graphical user interface to accept from a shopper an indication of ...” because the host computer as defined in claims 9 and 17 (a host graphical user interface), *supra*.

Claim 33 of the instant application and the ‘702’ application have similar claim elements except the instant application has the phrase “... host graphical user interface to accept from the shopper a host database query includes enabling accepting from a shopper an indication of at least one specific price and a price range for the class of items” versus the ‘702’ application phrase “... further adapted for enabling a shopper to restrict the class of items ...”, therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to have a host graphical user interface and a host database to perform the network-based system steps of claim 33 of the ‘702’ application.

Claim 34 of the instant application and the ‘702’ application have similar claim elements except the instant application has the phrase “a method for aggregating auction information from a plurality of auction sites, comprising, interconnecting at least one host server site and ones of the plurality of auction sites by a network, ...at least one host database ... with the host server, ... the network under the control of the host server, ... from the auction sites, extracting data items ..., the data items comprising information associated with items ..., storing the data items within the host database” versus the ‘702’ application phrase “a method of operating a network-based system for

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tracking progress of bids placed on one or more items offered for purchase over a communication at a plurality of auction sites, the method comprising, providing at least one host computer in communication with the network, ... with the host computer, periodically searching the plurality of auction sites across the communication network via a host server, and retrieving auction information posted ..., extracting data items ... item information associated with the items ..., and storing the items within a hierarchy of item categories in the host database”, therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to have a host server and a host data base to perform the method steps of claim 34 of the ‘702’ application.

Claim 35 of the instant application and the ‘702’ application have similar claim elements except the instant application has the phrase “searching the ones of the plurality of auction sites across the network under the control of the host server comprises searching ones of the plurality of auction sites continuously on a periodic basis” versus the ‘702’ application phrase “conducting one or more shopper-initiated searches of the item information within the host database and displaying items within the search to the shopper, and providing the shopper with a connection to the auction sites offering for purchase one or more of the items within the search”, therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to conduct one or more shopper-initiated searches, display the items to the shopper, and provide the shopper with a connection to the auction sites to perform the method steps of claim 35 of the ‘702’ application.

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Claim 36 of the instant application and claim 34 of the '702' application have similar claim elements except the instant application has the phrases "a method for aggregating auction information from a plurality of auction sites, comprising, interconnecting at least one host server site ..., providing at least one host database ..., searching the ones of the plurality of auction sites across the network under control of the host server, retrieving auction information from the auction sites, and the data items comprising information associated with items offered ..." versus the '702' application phrase "a network-based system for aggregating auction information from a plurality of auction sites, the system comprising, at least one host server site, the host server site ..., at least one host database ..., wherein the host server is programmed to search the plurality of auction sites across the network, retrieve auction information posted by ..., " therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to perform the network-based system steps of claim 34 of the '702' application.

Claim 37 of the instant application and claims 35 of the '702' application have similar claim elements except the instant application has the phrases "searching the ones of the plurality of auction sites across the network under the control of the host server comprises searching ones of the plurality of auction sites continuously on a periodic basis" versus the '702' application phrases "searching a plurality of auction sites continuously on a periodic basis, and for updating the host database with the data items retrieved and extracted from the auction information", therefore it would have been

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obvious to one having ordinary skill in the art at the time of the invention to perform the network-based system steps of claim 35 of the '702 application.

Claim 38 of the instant application and claims 37 of the '702' application have similar claim elements except the instant application has the phrases "storing the data items within the host database comprises sorting and arranging the data items according to a hierarchy of product and service categories established by the host server" versus the '702' application phrases "the data items stored within the host database are sorted and arranged according to a hierarchy of product and service categories established by the host server", therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to store the data items in the host database and to sort and to arrange the data items according to a hierarchy of product and service categories in order to perform the network-based system steps of claim 37 of the '702' application.

Claim 39 of the instant application and claims 37 of the '702' application have similar claim elements except the instant application has the phrases "searching the ones of the plurality of auction sites across the network under the control of the host server, by matching one or more keywords for products or services, by one or more categories associated with the products or services, or both, retrieving auction information from the auction sites, extracting data items from the auction information, the data items comprising information corresponding to the products or services offered for purchase by the auction sites, and storing the data items within the host database" versus the '702' application phrases "the host database storing data items extracted

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from auction information retrieved across the network from the plurality of auction sites and aggregated in the host database by the host server, the data items comprising information corresponding to the products or services offered..., and being associated with the host database with a plurality of categories established by the host server, the host server being programmed to conduct searches for data items stored within the host database, by one or more keywords matching the data items, by one or more categories associated with the data items or both”, therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to store the data items extracted from the auction information, the data items comprise information corresponding to the products or services offered for purchase by the auction sites, to have a host server programmed to conduct searches for data items stored within the host database in order to perform the system steps of claim 38 of the ‘702’ application.

Claim 40 of the instant application and claim 39 of the ‘702’ application have similar claim elements except the instant application has the phrase “... information chosen from one of a description of the product or service ...” versus the ‘702’ application phrase “ ... information selected from a group consisting of ...”, therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to have the information selected or chosen from the group according to a description of the product or service and to perform the system steps of claim 39 of the ‘702’ application.

Claim 41 of the instant application and claim 41 of the ‘702’ application have similar claim elements except the instant application has the phrase “the categories

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established by the host server are chosen from one of a ..." versus the '702' application phrase "the categories established by the host server are selected from a group ...", therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to have the categories selected or chosen from the group or one of a product or service type or type of auction and to perform the system steps of claim 41 of the '702' application.

Claim 42 of the instant application and claim 42 of the '702' application have same claim elements .

Claim 43 of the instant application and claim 43 of the '702' application have same claim elements .

Claim 44 of the instant application and claim 44 of the '702' application have same claim elements .

Claim 45 of the instant application and the '702' application have similar claim elements except the instant application has the phrases "a method for monitoring status of bids placed on one or more items at a plurality of auction sites in communication with a network, comprising, interconnecting at least one host server site and ones of the plurality of auction sites by a network, periodically gathering with the host server bid information from the auction sites across the network for items in which a shopper has expressed interest, and providing with the host server to the shopper a current aggregated listing ..." versus the '702' application "A network-based system for monitoring status bids placed on one or more items at a plurality of auction sites in communication with a network, the system comprising, at least one host server in

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communication, at least one database in communication with the host server, the host server being programmed to periodically gather ... and the host server being programmed to provide the shopper with current aggregating listing of the items, ...", therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to have a network-based system for monitoring status bids placed on one or more items at a plurality of auction sites...", therefore it would have been obvious to one having ordinary skill in the art at the time of the invention to have a network-based system for monitoring status bids placed on one or more items at a plurality of auction sites in communication with a network, the system comprising, at least one host server in communication, at least one database in communication with the host server, the host server being programmed to periodically gather ... and the host server being programmed to provide the shopper with current aggregating listing of the items, ..." and to perform the method steps of claim 45 (see claims 9 and 17), *supra*.

Claim 46 of the instant application and the '702' application have similar claim elements except the instant application has the phrases "enabling a host computer to connect the shopper to the auction sites where the shopper can place bids on the items". Both applications have the phrases "shopper can bid on items" and "providing an indication of whether the bids placed by the bidder on the items are winning or losing" versus the '702' application phrase "... is adapted for enabling the shopper to bid on the items, and for providing an indication of whether ...". Both applications have the phrases "shopper can bid on items" and "providing an indication of whether the bids placed by the bidder on the items are winning or losing", therefore it would have been

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obvious to one having ordinary skill in the art at the time of the invention to have the shopper to bid on the items, and for providing and indication of whether ... to perform the method steps of claim 46 in the '702' application (see claims 9 and 17), *supra*.

This is a provisional obviousness-type double patenting rejection.

### ***Drawings***

5. This application has been filed with informal drawings which are acceptable for examination purposes only. Formal drawings will be required when the application is allowed.

### ***Claim Objections***

6. Claim 1 is objected to because of the following informalities: Claim 1 recites "automatedly collecting and analyzing information about said items from". This claim should read "automatically collecting and analyzing information about said items from". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

The changes made to 35 U.S.C. 102(e) by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily

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published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

8. Claims 1 and 2 are rejected under 35 U.S.C. 102(e) as being anticipated by (US 6,336,105 B1) Conklin et al, hereafter Conklin.

With respect to claim 1, Conklin teaches, a method for aggregating information from a plurality of enterprises offering items for exchange over a network, comprising: automatedly (automatically) collecting and analyzing information about the items from enterprise databases associated with each of the enterprises by use of a host computer in communication with the enterprises over the network (col. 2, lines 65-67, col. 3, lines 1-5, col. 4, lines 19-23, and fig. 1a, steps 08a-08h, 06, 10b, 04, 10a, & 02); storing the information collected from the enterprise databases in a host database in communication with the host computer (col. 14, lines 36-42 and col. 15, lines 5-12); and providing a host graphical user interface through which a shopper can view, over the network, the information stored in the host database (Col. 17, lines 2-13, col. 14, lines 36-42, col. 15, lines 5-12, and fig. 29, step S01, S03, & S06). Conklin does not specifically state that the computer is a host computer ("a community sponsor 06 is shown also communicating over a telecommunications link 10b to the Internet 04"), col. 17, lines 2-3 and fig. 1a). However a host computer is well-known in the art as a computer that provides services to others that are linked to it by a network; generally, the more remote of two or more computers that a person is using at once.

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With respect to claim 2, Conklin teaches, collecting information from the enterprise databases includes crawling HTML page trees (col. 10, lines 29-31 and lines 35-40). HTML page trees are well known in the Internet art.

9. Claims 3-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conklin in view of (US 6,424,979 B1) Livingston et al, hereafter Livingston.

With respect to claim 3, Conklin did not teach, collecting information from enterprise databases include crawling XML page trees. Livingston discloses collecting information from enterprise databases include crawling XML page trees (col. 9, lines 47-51 and lines 63-54, col. 11, lines 43-52, col. 12, lines 1-23, fig. 4, step 79, fig. 8, steps 174, 176, & 180 and fig. 20). It would have been obvious to one having ordinary skill in the art at the time the invention was made to collect information from enterprise databases to include crawling XML page trees as taught by Livingston because this would enable Conklin to have XML data that is represented as a hierarchical tree, so the system can navigate the tree to retrieve the components to build the page and a generator compares the user's request to the attributes stored in the XML tags that mark the tree's components and only returns the information. XML page trees are well known in the Internet art.

With respect to claim 4, Conklin teaches, collecting the information is publicly accessible (col. 8, lines 26-62 and col. 10, lines 1-23). Livingston discloses, collecting the information is publicly accessible (col. 5, lines 56-62 and col. 8, lines 28-34).

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With respect to claim 5, Conklin teaches, wherein collecting information from the plurality of enterprises includes auction sites offering items for purchase over the network and having associated auction databases (col. 13, lines 7-35).

With respect to claim 6, Conklin teaches, wherein collecting information from the auction databases includes crawling HTML page trees (col. 10, lines 29-31 and lines 35-40). HTML page trees are well known in the Internet art. Conklin does teach an auction database ("the bid is submitted over the Internet to a central site which analyzes a database of sellers of that type of item ... (auction database) col. 13, lines 10-12 and lines 23-26 ("... auction sites on the World Wide Web which allow you to submit bids to a seller or auctioneer ...). Conklin does teach HyperText Markup Language (HTML) to create hypertext links to documents to create and maintain "internal" Web pages (col. 2, lines 36-38). Livingston discloses, HTML page trees (col. 12, lines 18-23).

With respect to claim 7, Conklin did not teach wherein the auction databases include XLM page trees (see claims 3 and 6), *supra*.

With respect to claim 8, this dependent claim is rejected for the similar rationale given for claim 4, *supra*.

With respect to claim 9, Conklin teaches, periodically collecting the information about the items from the enterprise databases and updating the information stored in the host database (col. 5, lines 60-67, col. 6, lines 1-6, col. 31, lines 66-67, col. 32, lines 1-18).

With respect to claim 10, Conklin teaches, wherein updating the information stored in the host computer comprises updating the information stored in the host

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database with sufficiently frequency to enable the shopper to monitor and participate effectively in bidding activity at the auction sites (col. 5, lines 60-67, col. 6, lines 1-6, col. 12, lines 32-47, col. 31, lines 66-67, and col. 32, lines 1-18). See claim 9, *supra*.

10. Claims 11-46 are rejected under 35 U.S.C. 103(a) as being unpatentable over Conklin in view of (US 5,835,896) Fisher.

With respect to claim 11, Conklin did not teach dynamically scheduling the collecting of information from the auction databases based upon content of previously collected information.

Fisher discloses, dynamically scheduling the collecting of information from the auction databases based upon content of previously collected information (col. 7, lines 50-65 and col. 8, lines 42-53). It would have been obvious to one having ordinary skill in the art at the time the invention was made to dynamically schedule the collecting of information from the auction databases based upon content of previously collected information and to include in Conklin because by including this feature in Conklin's "shopping cart", in order to allow the auction manager to schedule information to the auction database as merchandise items are scheduled for posting and opened for bidding.

With respect to claim 12, Conklin did not teach, enabling the host computer to receive an auction watch request from the shopper and monitoring with the host computer a bidding activity at a specified auction site with regard to a specified item in response to the received auction watch request and displaying the bidding activity to the shopper by way of the host graphical user interface.

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Fisher discloses, enabling the host computer to receive an auction watch request from the shopper and monitoring with the host computer a bidding activity at a specified auction site with regard to a specified item in response to the received auction watch request and displaying the bidding activity to the shopper by way of the host graphical user interface (col. 6, lines 39-67). It would have been obvious to one having ordinary skill in the art at the time the invention was made to enable the host computer to receive an auction watch request from the shopper and monitoring with the host computer a bidding activity at a specified auction site with regard to a specified item in response to the received auction watch request and displaying the bidding activity to the shopper by way of the host graphical user interface and to include in Conklin's "hosting mall" 24 Website enables buyers to browse through stores in order to access the network and view the merchandise catalog pages as they are updated with the bid information. The customer views across the network the catalog page (Conklin –col. 4, lines 66-67). Although the word graphical user interface does not appear to be employed, the recited "readable catalog page for viewing over a public network such as the Internet's World Wide Web (col. 6, lines 25-26) Must have had a GUI in order to function at the time of the invention, hence the inherence of GUI which is well known in the art.

With respect to claim 13, is rejected for the similar rationale given for claim 11, *supra*.

With respect to claim 14, Conklin did not teach, enabling the host graphical user interface to accept from the shopper an update request and updating at least a portion

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of the information stored in the host database substantially in real-time in response to the update requests.

Fisher discloses, enabling the host graphical user interface to accept from the shopper an update request and updating at least a portion of the information stored in the host database substantially in real-time in response to the update requests (col. 4, lines 32-45, col. 6, lines 31-45, col. 7, lines 66-67, col. 8, lines 1-4). It would have been obvious to one having ordinary skill in the art at the time the invention was made to enable the host graphical user interface to accept from the shopper an update request and updating at least a portion of the information stored in the host database substantially in real-time in response to the update requests and to include in Conklin's mall Website, in order to allow the electronic bid information to be placed in the database and to have the auction manager frequently query the database to see if any new bids have been placed then to have the catalog page generator to regenerate a catalog in an electronic auction system. The bid information is sent to the bidder via electronic mail.

With respect to claim 15, is rejected for the similar rationale as given for claim 9, *supra*.

With respect to claim 16, Conklin did not teach, enabling the host graphical user interface to accept from the shopper an update request and updating at least a portion of the information stored in the host database substantially in real-time in response to the update requests.

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Fisher discloses, enabling the host graphical user interface to accept from the shopper an update request and updating at least a portion of the information stored in the host database substantially in real-time in response to the update requests (col. 7, lines 15-23 and lines 32-41). It would have been obvious to one having ordinary skill in the art at the time the invention was made to enable the host graphical user interface to accept from the shopper an update request and updating at least a portion of the information stored in the host database substantially in real-time in response to the update requests and to include in Conklin's selling goods over the Internet, in order to allow the electronic auction system to record the records to show the bids and updates of the lot's merchandise catalog page to show the current high bids or bids and to whom such bids are attributable.

With respect to claim 17, Conklin did not teach, enabling the host graphical user interface to accept from the shopper an item watch request specifying a particular item for monitoring and monitoring the auction sites to detect if the specified item becomes available for bidding at the auction sites in response to the item watch request from the shopper.

Fisher discloses, enabling the host graphical user interface to accept from the shopper an item watch request specifying a particular item for monitoring and monitoring the auction sites to detect if the specified item becomes available for bidding at the auction sites in response to the item watch request from the shopper (col. 7, lines 24-65 and col. 9, lines 36-47). It would have been obvious to one having ordinary skill in the art at the time the invention was made to enable a graphical user interface to accept

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from the shopper an item watch request specifying a particular item for monitoring and monitoring the auction sites to detect if the specified item becomes available for bidding at the auction sites in response to the item watch request from the shopper and to include in Conklin's selling goods over the Internet, in order to allow potential customers to watch the merchandise catalog pages and to place bids in an electronic auction system.

With respect to claim 18, Conklin did not teach, providing the shopper with notification in response to detecting the specified item becoming available for bidding and wherein the host computer provides the notification by way of a host initiated mechanism different from a host graphical user interface.

Fisher discloses, providing the shopper with notification in response to detecting the specified item becoming available for bidding and wherein the host computer provides the notification by way of a host initiated mechanism different from a host graphical user interface (col. 6, lines 46-65 and col. 11, lines 4-20). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the shopper with notification in response to detecting the specified item becoming available for bidding and wherein the host computer provides the notification by way of a host initiated mechanism different from a host graphical user interface and to include in Conklin's selling goods over the Internet, in order to allow potential customers to watch the merchandise catalog pages and to place bids in an electronic auction system. The bid information is sent to the bidder via electronic mail.

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With respect to claim 19, Conklin did not teach, enabling the host graphical user interface to accept from the shopper a market watch request specifying a class of items for monitoring and detecting the availability of items within the class of items at the auction sites.

Fisher discloses, enabling the host graphical user interface to accept from the shopper a market watch request specifying a class of items for monitoring and detecting the availability of items within the class of items at the auction sites (col. 7, lines 8-28). It would have been obvious to one having ordinary skill in the art at the time the invention was made to enable the host graphical user interface to accept from the shopper a market watch request specifying a class of items for monitoring and detecting the availability of items within the class of items at the auction sites and to include in Conklin's aggregated catalog systems, in order to allow the selection of items to purchase and to list items for sales and prices.

With respect to claim 20, Conklin did not teach, distinguishing between newly detected ones of the items from previously detected ones of the items.

Fisher discloses, distinguishing between newly detected ones of the items from previously detected ones of the items (col. 8, lines 42-53). It would have been obvious to one having ordinary skill in the art at the time the invention was made to distinguish between newly detected ones of the items from previously detected ones of the items and to include in Conklin's catalog system, in order to allow the selection of items to purchase and to list new items for sale and bidding.

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With respect to claim 21, Conklin did not teach, providing the shopper with notification regarding detection of the items within the class of items and wherein the host computer provides the notification by way of a host initiated mechanism different from a host graphical user interface.

Fisher discloses, providing the shopper with notification regarding detection of the items within the class of items and wherein the host computer provides the notification by way of a host initiated mechanism different from a host graphical user interface (col. 9, lines 36-47). It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the shopper with notification regarding detection of the items within the class of items and wherein the host computer provides the notification by way of a host initiated mechanism different from a host graphical user interface and to include in Conklin's catalog system, in order to allow potential customers to watch the merchandise catalog pages and to place bids on a class of items in an electronic auction system. The information is sent to the bidder via electronic mail.

With respect to claim 22, this claim is rejected for the similar rationale given for claim 18, *supra*.

With respect to claim 23, Conklin did not teach, wherein the host computer-initiated mechanism includes a communication mechanism chosen from electronic mail, Internet messaging, pager, facsimile, telephone, and Web telephone.

Fisher discloses, the host computer-initiated mechanism includes a communication mechanism chosen from electronic mail (col. 2, lines 11-16), Internet messaging, pager, facsimile (col. 1, line 52), telephone (col. 1, line 55), and Web

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telephone (col. 1, lines 60-67). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have a host computer-initiated mechanism that includes a communication mechanism chosen from electronic mail, Internet messaging, pager, facsimile, telephone, and Web telephone and to include in Conklin's catalog system, in order to allow customers to submit bids and to know the winning bidder or bidders and the losing bidder or bidders.

With respect to claim 24, Conklin did not teach, the host computer-initiated mechanism includes providing a hyperlink to the host graphical user interface. Fisher discloses, the host computer-initiated mechanism includes providing a hyperlink to the host graphical user interface (col. 4, lines 32-45). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the host computer-initiated mechanism include providing a hyperlink to the host graphical user interface and to include in Conklin's catalog system, in order to allow an underlined or otherwise emphasized word or phrase to display another document when clicked with the mouse and the graphical user interface works with the mousable interfaces with pull-down menus, dialog boxes, checkboxes, radio buttons, drop-down list boxes, scroll bars, and scroll boxes which are well known in the art.

With respect to claim 25, Conklin teaches, enabling the host graphical user interface to accept from the shopper a host database query specifying a class of items and searching the host database for items within the class of items and displaying auction information with regard to the items within the class of items to the shopper by

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way of the host graphical user interface ("upon accessing a public network and seeing items and viewing over a public network a catalog page" -col. 6, lines 14-38).

With respect to claim 26, Conklin teaches, enabling the host graphical user interface to accept from a shopper a host database query includes enabling accepting from a shopper an indication of specific keywords to restrict the class of items (col. 28, lines 49-67 and col. 29, lines 1-17).

With respect to claim 27, Conklin teaches, enabling the host graphical user interface to accept from the shopper a host database query includes enabling accepting from a shopper an indication of at least one category to restrict the class of items (col. 31, lines 51-65).

With respect to claim 28, Conklin teaches, wherein enabling the host graphical user interface to accept from a shopper a host database query includes enabling accepting from a shopper an indication of a combination at least one keyword and at least one category to restrict the class of items (col. 29, lines 18-29).

With respect to claim 29, Conklin did not teach, enabling the host graphical user interface to accept from the shopper a host database query includes enabling accepting from a shopper an indication of particular ones of the auction sites to restrict the class of items.

Fisher discloses, the host graphical user interface to accept from the shopper a host database query includes (col. 7, lines 31-41) enabling accepting from a shopper an indication of particular ones of the auction sites to restrict the class of items (col. 7, lines 24-41 and lines 50-57). It would have been obvious to one having ordinary skill in the

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art at the time the invention was made to enable the host graphical user interface to accept from the shopper a host database query includes enabling accepting from a shopper an indication of particular ones of the auction sites to restrict the class of items and to include in Conklin's Website, in order to allow a shopper when specifying a class of items to call up an index of available merchandise by pressing a button or returning to a central home page.

With respect to claim 30, Conklin did not teach, enabling the host graphical user interface to accept from the shopper a host database query includes enabling accepting from a shopper an indication of a particular type of auction site in which the shopper is interested to restrict the class of items.

Fisher discloses, enabling the host graphical user interface to accept from the shopper a host database query includes enabling accepting from a shopper an indication of a particular type of auction site in which the shopper is interested to restrict the class of items (col. 8, lines 42-46, fig. 3, and fig. 6). Also see claim 29, *supra*.

With respect to claim 31, Conklin did not teach, wherein the particular type of auction site includes person-to person auctions and business-to-person auctions.

Fisher discloses, the particular type of auction site includes person-to person auctions and business-to-person auctions (col. 4, lines 46-67 and col. 5, lines 1-6). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have the particular type of auction site to include person-to person auctions and business-to-person auctions and to include in Conklin's catalog "shopping mall", in order to allow the a business in an electronic auction system to

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award merchandise to a top bidder (person) or a person to award merchandise to another person with the highest bid such as the auctions on e-bay.

With respect to claim 32, Conklin did not teach, enabling the host graphical user interface to accept from the shopper a host database query includes enabling the host computer and the host graphical user interface to accept from a shopper an indication of a time frame in which the host computer detects that an item within the class is available at one of the auction sites.

Fisher discloses, enabling the host graphical user interface to accept from the shopper a host database query includes enabling the host computer and the host graphical user interface to accept from a shopper an indication of a time frame in which the host computer detects that an item within the class is available at one of the auction sites (col. 7, lines 1-23 and see claim 19), *supra*.

With respect to claim 33, Conklin did not teach, enabling the host graphical user interface to accept from the shopper a host database query includes enabling accepting from a shopper an indication of at least one of a specific price and a price range for the class of items.

Fisher discloses, enabling the host graphical user interface to accept from the shopper a host database query includes enabling accepting from a shopper an indication of at least one of a specific price and a price range for the class of items (col. 8, lines 30-66). It would have been obvious to one having ordinary skill in the art at the time the invention was made to have enable the host graphical user interface to accept from the shopper a host database query includes enabling accepting from a shopper an

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indication of at least one of a specific price and a price range for the class of items and to include in Conklin's catalog "shopping mall", in order to allow the a business in an electronic auction system to award merchandise to a top bidder (person) or a person to award merchandise to another person with the highest bid such as the auctions on e-bay.

With respect to claim 34, Conklin teaches, interconnecting at least one host server site and ones of the plurality of auction sites by a network (col. 17, lines 2-19), providing at least one host database in communication with the host server (col. 4, lines 1-5, lines 19-31, and lines 45-51), searching the plurality of auction sites across the network under the control of the host server and retrieving auction information from the auction sites (col. 4, lines 5-18 and col. 13, lines 10-29) and extracting data items from the auction information item information, the data items comprising information associated with items offered for purchase by the auctions sites and storing the data items within the host database (col. 9, lines 7-17 and lines 48-58 and col. 13, lines 33-35). Fisher discloses, interconnecting at least one host server site and ones of the plurality of auction sites by a network (col. 4, lines 32-38), providing at least one host database in communication with the host server (col. 4, lines 46-55). Together Conklin and Fisher teach the claim limitations of claim 34.

With respect to claim 35, Conklin did not teach, searching the ones of the plurality of auction sites across the network under the control of the host server comprises searching ones of the plurality of auction sites continuously on a periodic basis. Fisher discloses, searching the ones of the plurality of auction sites across the

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network under the control of the host server comprises searching ones of the plurality of auction sites continuously on a periodic basis (col. 6, lines 17-26). It would have been obvious to one having ordinary skill in the art at the time the invention was made to search the ones of the plurality of auction sites across the network under the control of the host server comprises searching ones of the plurality of auction sites continuously on a periodic basis. Fisher discloses, searching the ones of the plurality of auction sites across the network under the control of the host server comprises searching ones of the plurality of auction sites continuously on a periodic basis and to include in Conklin's network looking into the enterprise, in order to allow the bidders (shoppers) to view the new item for auction and to place their bids.

With respect to claim 36, Conklin teaches, updating the host database with the data items retrieved and extracted from the auction information (col. 4, lines 19-31 and col. 7, lines 46-56).

With respect to claim 37, Conklin and Fisher did not teach, wherein storing the data items within the host database comprises sorting an arranging the data items according to a hierarchy of product and service categories established by the host server, however storing data items in a host database with sorting and arranging the data items in a hierarchy of product and service categories is old and well known in the database art of hierarchical databases and classifying items.

With respect to claim 38, Conklin teaches matching one or more keywords for the products or services, by one or more of the categories associated with the products or services or both (col. 21, lines 16-30).

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This claim is rejected for the similar rationale given for claim 34.

With respect to claim 39, Conklin teaches, the information corresponding to the products and services comprises information chosen from one of a description of the product or service, a name of auction site, and a type of auction (col. 2, lines 63-67, col. 3, lines 1-5, col. 5, lines 60-65, col. 6, lines 1-5, and col. 17, lines 43-59). Fisher discloses, the information corresponding to the products and services comprises information chosen from one of a description of the product or service, a name of auction site, and a type of auction (col. 2, lines 35-45 and 59-64). It would have been obvious to one having ordinary skill in the art at the time the invention was made to the information corresponding to the products and services comprises information chosen from one of a description of the product or service, a name of auction site, and a type of auction. Fisher discloses, the information corresponding to the products and services comprises information chosen from one of a description of the product or service, a name of auction site, and a type of auction (col. 1, lines 12-22 and col. 10, lines 29-62). Together Conklin and Fisher teach the claim limitations of claim 39.

With respect to claim 40, Conklin teaches, storing the data items with the database comprises storing the data items with the database according to categories established by the host server (col. 14, lines 19-25).

With respect to claim 41, this claim is rejected for the similar rationale given for claim 40, *supra*.

With respect to claim 42, this claim is rejected for the similar rationale given for claim 38, *supra*.

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With respect to claim 43, this claim is rejected for the similar rationale given for claim 39, *supra*.

With respect to claim 44, Conklin teaches wherein the search by categories can be conducted within a subset of data items identified by a search by one or more keywords (col. 28, lines 49-60 and col. 29, lines 27-49). See claim 39, *supra*.

With respect to claim 45, Conklin teaches, providing the host server to the shopper a current aggregated listing of the items and the current bid information for the items (col. 2, lines 63-67, col. 3, lines 1-5, and col. 12, lines 15-23).

Conklin did not teach periodically gathering with the host server current bid information from the auction sites across the network for items in which a shopper has expressed interest.

Fisher discloses periodically gathering with the host server current bid information from the auction sites across the network for items in which a shopper has expressed interest (col. 1, lines 19-22, col. 4, lines 32-66, and col. 8, lines 42-67). It would have been obvious to one having ordinary skill in the art at the time the invention was made to periodically gather with the host server current bid information from the auction sites across the network for items in which a shopper has expressed interest and to include in Conklin's website because this would allow Conklin's interested bidders (shopper) to appear at the appointed time and place to bid on merchandise which the bidder (shopper) has expressed and interest (see claims 36 and 39), *supra*.

With respect to claim 46, Conklin did not teach, enabling the host computer to connect the shopper to auction sites where the shopper can place bids on the items and

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provide an indication of whether the bids placed by the bidder on the items are winning or losing.

Fisher discloses, enabling the host computer to connect the shopper to auction sites where the shopper can place bids on the items and for providing an indication of whether the bids placed by the bidder on the items are winning or losing (col. 7, lines 1-23). It would have been obvious to one having ordinary skill in the art at the time the invention was made to enable the host computer to connect the shopper to auction sites where the shopper can place bids on the items and for providing an indication of whether the bids placed by the bidder on the items are winning or losing and to include in Conklin's technique for selling goods over the Internet because this would allow Conklin to send a notification to the winning bidder or bidders and the losing bidder or bidders and to post a list of the winning bidders on the closed lot's merchandise catalog page.

### ***Conclusion***

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Hu, Jim, News Article, "Lycos launches auction search" disclosed the Lycos "product will not compete with other houses", said James Carney, president and chief executive of BiddersEdge. Using BiddersEdge also helps Lycos in another way, by providing the company with a technology template that will allow it to feature the auction service over its entire network sites ...".

Brown (US 5,794,219) disclosed conducting an on-line auction using bid pooling.

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Kaczmariski et al (US 6,314,424) disclosed a tree view for an HTML Web interface.

***Inquiries***

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ella Colbert whose telephone number is 703-308-7064. The examiner can normally be reached on Monday-Thursday from 6:30 am -5:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vincent Millin can be reached on 703-308-1038. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for Official communications and 703-746-5622 for Non-Official communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



E. Colbert

October 21, 2002